



PRESS RELEASE

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Justice Department Announces Aargauische Kantonalbank Reaches Resolution Under Swiss Bank Program

The Department of Justice announced today that Aargauische Kantonalbank (AKB) reached a resolution under the department's [Swiss Bank Program](#).

The Swiss Bank Program, which was announced on Aug. 29, 2013, provides a path for Swiss banks to resolve potential criminal liabilities in the United States. Swiss banks eligible to enter the program were required to advise the department by Dec. 31, 2013, that they had reason to believe that they had committed tax-related criminal offenses in connection with undeclared U.S.-related accounts. Banks already under criminal investigation related to their Swiss-banking activities and all individuals were expressly excluded from the program.

Under the program, banks are required to:

- Make a complete disclosure of their cross-border activities;
- Provide detailed information on an account-by-account basis for accounts in which U.S. taxpayers have a direct or indirect interest;
- Cooperate in treaty requests for account information;
- Provide detailed information as to other banks that transferred funds into secret accounts or that accepted funds when secret accounts were closed;
- Agree to close accounts of accountholders who fail to come into compliance with U.S. reporting obligations; and
- Pay appropriate penalties.

Swiss banks meeting all of the above requirements are eligible for a non-prosecution agreement.

According to the terms of the non-prosecution agreement signed today, AKB agrees to cooperate in any related criminal or civil proceedings, demonstrate its implementation of controls to stop misconduct involving undeclared U.S. accounts and pay a penalty in return for the department's agreement not to prosecute this bank for tax-related criminal offenses.

AKB was founded in 1912 and is headquartered in Aarau, Switzerland. The canton of Aargau owns 100 percent of AKB and guarantees its deposits.

AKB offered a variety of traditional Swiss banking services that it knew could assist, and did assist, U.S. taxpayers in concealing their identity from the Internal Revenue Service (IRS) by minimizing the paper trail associated with their undeclared assets and income. AKB offered to identify accounts only by number and agreed not to send any mail to U.S. resident clients, which ensured that documents acknowledging the existence of the accounts remained outside of the United States and beyond the reach of U.S. tax authorities. AKB accepted some former UBS clients following the U.S. investigation of untaxed assets and opened accounts for foundations and other entities that hid their U.S. ownership.

As early as 2008, AKB knew that some U.S.-related accounts held untaxed funds, which were described within AKB in one instance as “Schwarzgeld” or “black money.” AKB knew that U.S. persons had a duty under U.S. law to report their income to the IRS and to pay taxes on that income, including all income earned in accounts maintained by AKB in Switzerland. Despite this knowledge, AKB opened, maintained and serviced accounts for U.S. persons that it knew or had reason to know were likely not declared to the IRS or the U.S. Department of the Treasury as U.S. law required.

AKB clients who lived in the United States engaged in a pattern of cash withdrawals. For instance, one client personally came to AKB and, over the counter, withdrew large amounts of cash from her account – over 100,000 Swiss francs in 2009 and over 180,000 Swiss francs in 2010. AKB also assisted its U.S. clients in sending money to themselves, relatives, business partners or other businesses in the United States by issuing checks drawn on one of AKB’s bank accounts. Because these checks listed only AKB as the accountholder, they did not reveal that the funds were ultimately paid out of the U.S. clients’ Swiss bank account. U.S. clients were thus able to utilize this technique to conceal their ownership of a Swiss account.

In 2009, responding to what AKB considered “astonishing and alarming” international pressure to lift Switzerland’s longstanding client-bank confidentiality for tax-offending foreign clients, AKB decided to start dealing with “openly declared black money and domiciliary companies.” The latter situation, where the domiciliary company was in truth a nominee or sham entity, was one AKB knew its employees either “knew or should expect” to involve tax evasion.

From at least 2008 through 2014, AKB maintained and serviced 454 U.S.-related accounts having a maximum aggregate value of more than \$639 million. AKB will pay a penalty of \$1.983 million.

In accordance with the terms of the Swiss Bank Program, AKB mitigated its penalty by encouraging U.S. accountholders to come into compliance with their U.S. tax and disclosure obligations. While U.S. accountholders at AKB who have not yet declared their accounts to the IRS may still be eligible to participate in the [IRS Offshore Voluntary Disclosure Program](#), the price of such disclosure has increased.

Most U.S. taxpayers who enter the IRS Offshore Voluntary Disclosure Program to resolve undeclared offshore accounts will pay a penalty equal to 27.5 percent of the high value of the accounts. On Aug. 4, 2014, the IRS increased the penalty to 50 percent if, at the time the taxpayer initiated their disclosure, either a foreign financial institution at which the taxpayer had an account or a facilitator who helped the taxpayer establish or maintain an offshore arrangement had been publicly identified as being under investigation, the recipient of a John Doe summons or cooperating with a government investigation, including the execution of a deferred prosecution agreement or non-prosecution agreement. With today’s announcement of this non-prosecution agreement, noncompliant U.S. accountholders at AKB must now pay that 50 percent penalty to the IRS if they wish to enter the IRS Offshore Voluntary Disclosure Program.

Acting Assistant Attorney General Caroline D. Ciraolo of the Justice Department’s Tax Division thanked the IRS and in particular, IRS-Criminal Investigation and the IRS Large Business & International Division for their substantial assistance. Acting Assistant Attorney General Ciraolo also thanked Brian D. Bailey, who served as counsel on this matter, as well as Senior Counsel for International Tax Matters and Coordinator of the Swiss Bank Program Thomas J. Sawyer, Senior Litigation Counsel Nanette L. Davis and Attorney Kimberle E. Dodd of the Tax Division.